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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/664,360	09/18/2000	Jin-Tae Roh	3449-0132P	3954
2292	7590	10/27/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			PSITOS, ARISTOTELIS M	
			ART UNIT	PAPER NUMBER
			2653	

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/664,360	ROH, JIN-TAE ✓	
<b>Examiner</b>		<b>Art Unit</b>	
Aristotelis M. Psitos		2656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 September 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 4-12,22 and 24-35 is/are pending in the application.
  - 4a) Of the above claim(s) 4-12 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 22 and 24-35 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 May 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

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**DETAILED ACTION**

**Applicant's response of 9/8/05 has been considered with the following results.**

Claims 4-12 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 9/8/05.

***Drawings***

The corrected/substitute sheets file on 5/9/05 have been approved and entered into the file.

Nevertheless, Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims 22, 24-35 are pending and the following action on the merits is taken.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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1. Claims 22,25-26,28,30-31,33 and 34 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Takahashi further considered with Lee.

It is noted that independent claims 22 and 28 recite limitations that are not patentable distinct there between. Applicant's attention is drawn to MPEP § 706.03(k).

Applicant is advised that should claim 22 be found allowable, claim 28 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

The following analysis is made:

Claim 22

Takahashi

A method for recording data on an optical recording medium, comprising the steps of:

see abstract & fig. 2

reading out a reference recording condition recorded on an optical recording medium;

see description of step 2 in Fig. 4 & associated elaboration

recording test data while varying a recording condition with respect to the reference recording condition;

see description of step 10 in fig. 4

determining an optimum recording power, based on reproduction characteristics of the test data; and

see description of step 11 in fig. 4

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recording a recording condition data including the optimum recording power, recorder identification, recording speed and write strategy on a specific area of the optical recording medium,

With respect to recorder id, speed and write strategy  
see col. 3, lines 60 plus

wherein the specific area of the optical recording medium is a lead-in area or an area inner than the lead-in area of the optical recording medium.

see fig. 1 a

In the above analysis, the examiner interprets the overall system of Takahashi as providing the above limitations. The examiner interprets the id provision as noted in col. 3, lines 20 plus as the recorder identification, and that the write strategy disclosed includes the appropriate speed information.

Furthermore, although fig. 1a of Takahashi depicts a "read-in" area, and the positioning of the test data recorded prior to, the examiner interprets this as the claimed --- lead-in ---- area.

If applicant can convince the examiner that the above interpretation is incorrect, then under 103 considerations, the examiner further relies upon the Lee system for disclosing both the speed strategy – see the discussion with respect to tables 1 and 2, as well as the --- lead-in ---- area in figure 4a.

With respect to claim 25, such is considered inherently present in Takahashi, that is the test data is repeated recorded in the specific area, as noted in figure 1a.

With respect to claims 26 and 33, the sync code is considered to be inherently present in the atip data.

With respect to claims 30,31 and 34 see the above analysis with respect to the different speed(s) and the identification of the recorder.

With respect to independent claim 28, this claim differs from independent claim 22 in the following:

"recording a recording condition data including the

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optimum recording power for the specific recording speed  
and write strategy for the specific recording speed to  
be used to record data, on a specific area of the  
optical recording medium."

As analyzed above, such limitation is present in the above base reference, or combination. There is no recorder identification requirement.

2. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 22 above, and further in view of Takeuchi and both further considered with Jacobs et al.

The ability of having a plethora of sessions is further disclosed by the Takeuchi system.

It would have been obvious to modify the base system as relied upon above in paragraph 1 with the additional teaching from Takeuchi motivation is to provide for subsequent recording capabilities, i.e., not requiring a single record at once session. Such capabilities take into account unaccounted for disruptions during recording sessions.

Jacobs et al teach in this environment the ability of providing for test recording abilities prior to each recording session/location – see the discussion commencing at col. 7 line 65 to col 8 line 16.

It would have been obvious to modify the above system with this additional teaching, motivation is to ensure proper signal recording especially to ensure proper signal power levels at the various locations throughout the record medium.

3. Claims 27, 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 22, 31 and 28 above, and further in view of the acknowledged prior art.

The examiner interprets (has interpreted) this limitation as disclosed in the acknowledged prior art figure 9. Proper identification of such (i.e., patent #, document, publisher, etc) is respectfully requested to complete the search report.

It would have been obvious to modify the base system as relied upon above in paragraph 1 with this additional limitation, motivation is as discussed with respect to this acknowledged prior art.

4. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi further considered with Lee and all further considered with Takeuchi and all further considered with Jacobs et al.

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Claim 29 follows the limitations of claim 28 and includes the limitations of claim 24. Hence the examiner relies upon the above analysis with respect to Takahashi and Lee as discussed with respect to claim 28 and further with the above analysis with respect to Takeuchi and Jacobs et al as applied to claim 24.

It would have been obvious to modify the above system to Takahashi and Lee with these additional teachings from Takeuchi and Jacobs et al, motivation is to ensure proper signal recording especially to ensure proper signal power levels at the various locations throughout the record medium.

5. Claims 22, 25-26, 28, 30-31, 33 and 34 are rejected under 35 U.S.C. 103 (c) as being obvious over Kim further considered with Takahashi.

With respect to claim 22 (method) the disclosure starting at col. 2 line 21 to col. 7 line 11, and especially the description of figure 6 meet the steps so recited as interpreted by the examiner

With respect to the speed requirement, note the varying speeds indicated in tables 1 and 2.

There is no clear depiction in Kim that the information is recorded back onto the disc, but rather onto/into a memory of the controller.

The additional ability for updating of a recording condition and subsequently rerecording it onto the record medium is found in Takahashi.

Furthermore, with respect to identifying the recorder as recited in 22, note that Takahashi et al also discloses the ability of such.

It would have been obvious to modify the base system of Kim with the above teaching form Takahashi, motivation is to provide for an updated recording condition on the record medium itself, and hence serving as a) either as an additional back up, or b) reducing the system requirements of the controller, i.e., not requiring a separate memory location for updated info. as well as having a recorder id also presented/placed upon the record medium so as to further assist the overall operation by providing for identification of the recording mechanism and hence used in subsequent problem solving/identification – i.e., which unit/recorder failed or required additional compensation.

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With respect to claim 25, since the combined reference provide for at least two recording of the recording condition, the limitations of this claim are considered met.

With respect to the limitations of claims 26 and 33, because sync. information is a necessity for the operation of optical discs, the examiner concludes that such a limitation is inherently present in the above combined references.

With respect to claim 28, this claim is similar to claim 22 but lacking any particular limitation with respect to the recorder id.

With respect to claim 30, this is the similar limitation as found in claim 22 with respect to the speeds, see the above discussion as found in tables 1 and 2 of the Kim document.

With respect to claim 31, see the above discussion with respect to Takahashi et al with respect to the recorder id.

With respect to claim 34 this is met by the above analysis with respect to Takahashi et al (col. 3 lines 20 plus.

6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 22 as applied in paragraph 5 above, and further in view of Takeuchi and both further considered with Jacobs et al.

The ability of having a plethora of sessions is further disclosed by the Takeuchi system.

It would have been obvious to modify the base system as relied upon above in paragraph 5 with the additional teaching from Takeuchi motivation is to provide for subsequent recording capabilities, i.e., not requiring a single record at once session. Such capabilities take into account unaccounted for disruptions during recording sessions.

Jacobs et al teach in this environment the ability of providing for test recording abilities prior to each recording session/location – see the discussion commencing at col. 7 line 65 to col 8 line 16.

It would have been obvious to modify the above system with this additional teaching, motivation is to ensure proper signal recording especially to ensure proper signal power levels at the various locations throughout the record medium.

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7. Claims 27, 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 22 and 28 above in paragraph 5, and further in view of the acknowledged prior art with respect to figures 9 of applicant's disclosure. Proper identification of such prior art is respectfully requested to ensure a complete search.

The examiner interprets the classification data as defined by this claim to be meet by the information provided in table 9.

It would have been obvious to modify the base systems as relied upon in paragraph 5 with the additional teaching from the acknowledged prior art, motivation is to provide for additional data relied upon for system performance and hence increase the robustness of the systems accordingly. The provision of this addition data, classification assists the user in subsequent error identification.

8. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable/obvious over Kim further considered with Takahashi and further considered with Takeuchi and both further considered with Jacobs et al.

Claim 29 follows the limitations of claim 28 and includes the limitations of claim 24. Hence the examiner relies upon the above analysis as stated in paragraph 5 with respect to Takahashi and Lee as discussed with respect to claim 28 and further with the above analysis as stated in paragraph 6 with respect to Takeuchi and Jacobs et al as applied to claim 24.

It would have been obvious to modify the above system of Kim and Takahashi with these additional teachings from Takeuchi and Jacobs et al, motivation is to ensure proper signal recording especially to ensure proper signal power levels at the various locations throughout the record medium.

#### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 22,25, 26, 28, 30-31 and 34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6404712 in view of Kim.

With respect to claim 22 , the ability with respect to the recording condition described in the penultimate paragraph of this independent claim includes:

- a) recording power – already present in the above noted patent, see claim 3 therein,
- b) recorder identification – see claim 4 in the above patent,
- c) recording speed and write strategy – see Kim with respect to his tables for speed and strategies.

It would have been obvious to modify the base system of Lee et al with the above additional teaching from Kim, motivation is to provide for an updateable record medium indicative of associated speed with power level and write strategy to enable easier and correctable actions in the event of rewrites due to variations in environmental conditions during subsequent writing.

With respect to claim 25, see the limitation of paragraph (d) in claim 1 of the above noted patent. The limitation of present claim 25 is so met.

With respect to claims 26 and 33 sync data is inherently provided in the above noted systems and the examiner concludes these limitations as met.

With respect to independent claim 28, the recording condition data is similar to that of claim 22, but lacks the recorder identification. Hence the above analysis as applied to claim 22 meet this claim.

With respect to claim 30, such is considered met by the teachings from Kim, note the various speed designations with respect to tables 1 and 2.

With respect to claims 31 and 34, the recorder id is in claim 4 of the patent.

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10. Claims 27, 32 and 35 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the above noted patented claims 1-4 as stated in paragraph 9 above with the additional teaching from Kim and all further considered with the acknowledged prior art.

The examiner interprets the depiction of figure 9 in the application as meeting such a limitation, and such is acknowledged prior art.

It would have been obvious to modify the base system as stated above in paragraph 5 with the additional classification identification, motivation is to permit a user to readily determine/detect/identify various classifications (good, bad, etc), of the disc environment, i.e., a more user friendly interfacing ability.

11. Claim 24 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the above noted patented claims 1-4 as stated in paragraph 9 above with the teaching from Kim and further with the additional teaching from Takeuchi and all further considered with Jacobs et al.

The ability of having a plethora of sessions is further disclosed by the Takeuchi system.

It would have been obvious to modify the base system as relied upon above in paragraph 7 with the additional teaching from Takeuchi motivation is to provide for subsequent recording capabilities, i.e., not requiring a single record at once session. Such capabilities take into account unaccounted for disruptions during recording sessions.

Jacobs et al teach in this environment the ability of providing for test recording abilities prior to each recording session/location – see the discussion commencing at col. 7 line 65 to col 8 line 16.

It would have been obvious to modify the above system with this additional teaching, motivation is to ensure proper signal recording especially to ensure proper signal power levels at the various locations throughout the record medium.

12. Claim 29 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the above noted patent claims 1-4 as stated in paragraph 9 above with the additional teaching Kim and all further with the additional teaching from Takeuchi and all further considered with Jacobs et al.

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Claim 29 follows the limitations of claim 28 and includes the limitations of claim 24. Hence the examiner relies upon the above analysis as stated in paragraph 9 with respect to the patented claims 1-4 as discussed with respect to claim 28 and further with the above analysis as stated in paragraph 11 with respect to Takeuchi and Jacobs et al as applied to claim 24.

It would have been obvious to modify the above-patented claims with these additional teachings from Takeuchi and Jacobs et al, motivation is to ensure proper signal recording especially to ensure proper signal power levels at the various locations throughout the record medium.

#### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Caffarelli et al also is cited as teaching the ability of having control data located in each of the li, lo (lead-in, lead-out) areas in this environment.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-Thursday 8 - 3.

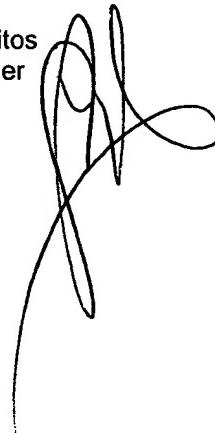
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos  
Primary Examiner  
Art Unit 2656

AMP

A handwritten signature in black ink, appearing to read "Aristotelis M Psitos". The signature is fluid and cursive, with a large, stylized initial 'A'.